



April 19, 2024

VIA CM/ECF AND EMAIL

Hon. Katherine Polk Failla, U.S. District Judge
United States District Court
Southern District of New York
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New York, NY 10007
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MEMO ENDORSED

Re: *Foley v. IRBsearch, LLC*
Case No. 1: 24-cv-01303-KPF
Our File No.: VEL 46335

Your Honor:

In follow up to the letter filed earlier this afternoon (Document No. 11), please be advised that Plaintiff's Counsel has consented to the filing of a pre-answer motion to dismiss. If the Court wishes to schedule a conference call to discuss this matter further, please note that Mr. Bromberg's office will be closed next week on Tuesday and Wednesday in observance of Passover, and I will be unavailable on Monday and Friday.

Thank you.

Respectfully requested,

KENNEY SHELTON LIPTAK NOWAK LLP

A handwritten signature in black ink, appearing to read 'J. Carlino'.

Jeffrey A. Carlino, Partner

/ajc

The Court is in receipt of Defendant's request to file a pre-answer motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1), 12(b)(6), 12(b)(7), 19(a), and 19(b) (Dkt. #11) as well as the above letter indicating Plaintiff's consent to such filing (Dkt. #12).

In view of the parties' agreement on proceeding with motion practice, the Court will waive its standard pre-motion conference requirement in this instance and permit Defendant to file its anticipated motion to dismiss. However, the Court will give Plaintiff a period of time to consider and, if appropriate, file an amended complaint, in view of the issues raised in Defendant's pre-motion letter.

Accordingly, it is hereby ORDERED that, if Plaintiff wishes to amend her complaint, she must file an amended complaint on or before **May 28, 2024**. It is further ORDERED that Defendant shall file its motion to dismiss the operative complaint (either the existing complaint or, if Plaintiff chooses to file one, the amended complaint) on or before **June 28, 2024**. Plaintiff shall file any opposition on or before **July 19, 2024**, and Defendant shall file any reply on or before **August 2, 2024**.

The parties shall inform the Court if at any time they would like to be referred to (i) the Court-annexed Mediation Program (about which information may be found at <https://www.nysd.uscourts.gov/programs/mediation-adr>) or (ii) the presiding Magistrate Judge for a settlement conference.

Finally, the initial pretrial conference currently scheduled for **May 8, 2024**, is hereby ADJOURNED *sine die*.

Dated: April 22, 2024
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE